

## 37 Am. Jur. 2d Fraud and Deceit § 114

American Jurisprudence, Second Edition | May 2021 Update

### Fraud and Deceit

George Blum, J.D., John Bourdeau, J.D., Romualdo P. Eclavea, J.D., Janice Holben, J.D., Karl Oakes, J.D. and Eric C. Surette, J.D.

### IV. False Representations

#### F. Intent to Deceive, or to Induce Reliance; Knowledge of Falsity

##### 1. Necessity of Intent

## § 114. Representations to class of persons or public

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Fraud](#)  4

Where false representations are made to a particular class of persons<sup>1</sup> or to the public generally,<sup>2</sup> they must, in order to form the basis of liability, have been intended to influence a complaining party as one of the public or one of such class. In such case, however, an intent to deceive the plaintiff in particular is not necessary, but it is sufficient that there was an intent to defraud any person falling within the category for whom the representations are made who may act on them.<sup>3</sup> It is enough that the complaining party was entrapped by them and that they were designed to entrap someone.<sup>4</sup> It has been said that one who intends to defraud the public or a particular class of persons is deemed to have intended to defraud every individual in that class who is actually misled.<sup>5</sup> However, a plaintiff who fails to show that he or she is one of a class to which representations were intended to be addressed cannot base an action in deceit thereon.<sup>6</sup>

### CUMULATIVE SUPPLEMENT

#### Cases:

Consumer adequately alleged an affirmative misrepresentation fraud claim against operator of pharmacy under common law and Arizona Consumer Fraud Act (CFA) regarding developer's blood tests which used a tiny drop of blood for analysis, by alleging that consumer relied on marketing by operator and developer regarding reliability of their services, including on websites and in press releases which consumer read before visiting pharmacy for blood tests, and that operator was aware, or should have been aware, of fraud before consumer purchased tests. [Ariz. Rev. Stat. Ann. § 44-1528\(A\)\(3\)](#). [In re Arizona Theranos, Inc., Litigation](#), 308 F. Supp. 3d 1026 (D. Ariz. 2018).

**[END OF SUPPLEMENT]**

© 2021 Thomson Reuters. 33-34B © 2021 Thomson Reuters/RIA. No Claim to Orig. U.S. Govt. Works. All rights reserved.

Footnotes

- 1 Gulf Oil Corp. of Pennsylvania v. Newton, 130 Conn. 37, 31 A.2d 462 (1943); Webb v. Rockefeller, 195 Mo. 57, 93 S.W. 772 (1906).
- 2 Nye Odorless Incinerator Corp. v. Felton, 35 Del. 236, 162 A. 504 (Super. Ct. 1931); Puffer v. Welch, 144 Wis. 506, 129 N.W. 525 (1911).
- 3 Gulf Oil Corp. of Pennsylvania v. Newton, 130 Conn. 37, 31 A.2d 462 (1943); Nye Odorless Incinerator Corp. v. Felton, 35 Del. 236, 162 A. 504 (Super. Ct. 1931).
- 4 Nye Odorless Incinerator Corp. v. Felton, 35 Del. 236, 162 A. 504 (Super. Ct. 1931); Campbell v. Gooch, 131 Kan. 456, 292 P. 752 (1930).
- 5 Wennerholm v. Stanford University School of Medicine, 20 Cal. 2d 713, 128 P.2d 522, 141 A.L.R. 1358 (1942).
- 6 Van Swall v. Derschug, 235 A.D. 387, 257 N.Y.S. 206 (4th Dep't 1932).

---

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.